OCT 16 1984

KUCLUM I.

Enforcement Action - Duane Marine Corporation, Perth Amboy, New Jersey

Fred N. Rubel, Chief Response and Prevention Branch

339510

Robert Ogg, Chief Site Investigation and Compliance Branch

As a follow-up to Bruce Sprague's conversation with you on October 15, I am requesting that enforcement action be initiated to get responsible parties to act immediately at Duane Marine since we consider conditions to be unsafe and a delay in the state's response is anticipated. We will prepare an Action Memorandum for the RA's approval within the next ten days proposing a removal action. The EPA action, if taken, would involve the removal/disposal of drums and other containers of hazardous materials.

Attached is some background information to aid the individual you assign to this project. If you have any questions on this site, the OSC assigned to this site is Bruce Sprague.

Attachments

cc: B. Sprague, 2ERR-RP

.File: Duane Marine

2ERR-RP:Sprague:340-6656:ss:10/16/84:disk s#6

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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF WASTE MANAGEMENT

HAZARDOUS SITE MITIGATION ADMINISTRATION CN 028, Trenton, N.J. 08625

JORGE H. BERKOWITZ, PH.D. ADMINISTRATOR

1 6 APR 1984

Bruce Sprague, Environmental Scientist U.S. Environmental Protection Agency Region II U.S.A. Raritan Depot Woodbridge Avenue Edison, New Jersey 08837

Dear Mr. Sprague:

MARWAN M. SADAT, P.E.

DIRECTOR

As per your request I have attached the information concerning the status of DEP's enforcement action and the investigation report from the City of Perth Amboy as the result of a fire at Duane Marine.

As suggested by Mr. Heksch, the ten day directive letter is being prepared.

Should you need any additional information, please contact me. Also, please keep the Department informed with the status of this case.

Sincerely,

Edwin Liu Site Manager

Bureau of Site Management

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HS10/cs Attachment

STATE OF NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY DIVISION OF LAW

MEMORANDUM

DATE: March 27, 1984

TO: Edwin Lieu

Hazardous Site Mitigation FROM: Ronald P. Heksch, DAG

SUBJECT: Duane Marine Corp.

I am writing to formally advise you that the above matter has been reassigned to me for handling. It is my understanding from discussions we have had that DEP wants to conduct an immediate cleanup of the Duane Marine facility in Perth Amboy with money from the Spill Fund. Given the failure of Duane Marine to act responsibly and take all action necessary to clean up its property despite legal action brought by this office and the City of Perth Amboy, I would recommend that the State-funded cleanup commence as soon as possible and that we seek treble damages from the company and its owners/operators. This being the case a Spill Fund ten-day directive letter should be sent to Duane Marine, Edward Leccareaux and any other owners or operators of the facility we know about. Thereafter, if, as expected, no response is forthcoming cleanup activities can commence. Please send me copies of the directive letters for my file and keep me advised of DEP's cleanup activities.

It is important to note that the contractor hired to do the cleanup work must understand that he will most likely have to testify in court. He should therefore be advised to carefully document all his actions and be able to fully justify his costs. Furthermore, he must be able to provide expert testimony related to the hazardous conditions at the site and the need for cleanup. Additionally, during the course of cleanup, the contractor and/or DEP should gather evidence to assist the enforcement case. This should include, but not be limited to, gathering information related to the illegal handling and/or disposal of hazardous waste at the site; gathering information related to the generators of the wastes found at the site; linking specific wastes found to specific generators, if possible, and a review of all available records related to the Duane Marine operations at the property in question.

Finally, you have asked for an outline of the State's enforcement activities to date. The following is a legal history of this case based on my review of the file. In April of 1979 Duane Marine's temporary operating authorization from DEP expired. On or about May 23, 1979 the City of Perth Amboy brought suit against the company seeking to have it cease operating. On or about June 4, 1979 DEP intervened in the aforementioned law suit. On July 31, 1979 a consent order was entered into wherein Duane Marine was permitted to continue operating provided that it would take certain action to improve its operations and begin handling the wastes it stored in an environmentally sound fashion and in full compliance with the law. Duane Marine

Edwin Lieu Page 2 March 27, 1984

failed to comply with the terms and conditions of the consent order in question. This was true despite numerous applications by DEP to the court to enforce the terms of the consent order.

On July 7, 1980, as you know, there was a fire at the Duane Marine facility which substantially destroyed the operations there. On July 18, 1980 the parties appeared before the court at which time Duane Marine's attorney represented to the court that the company had no interest in continuing operations as a special waste facility on the premises in question. The court ordered Duane Marine to undertake an immediate cleanup of all the remaining drums and rubble at the site. The company failed to comply with this order as well. On July 31, 1981 our office filed an application with the court seeking compliance with the July 18, 1980 court order. The State's application was made returnable in August, however, negotiations followed between counsel for the State and Duane Marine's attorney and the return date of the State's motion was adjourned indefinitely. Needless to say, the negotiations between the parties proved fruitless and Duane Marine has still not complied with previous orders of the court to clean up its property.

Again, in light of the history of this case and DEP's desire to conduct cleanup of the Duane Marine property as soon as possible, it is my opinion that a ten-day directive letter should be sent to the company and its owners and/or operators immediately. Thereafter, a State-funded cleanup should take place, after which we will sue the company and its principals for three times the cost of cleanup.

If for some reason DEP is unable to effectuate a cleanup within the next few months, please let me know so that I can pursue other remedies we might have against Duane Marine.

If you need any further information concerning this matter or require copies of the court papers, let me know.

RPH/bf

cc: Lawrence E. Stanley, DAG

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NOV 9 1984

Luane Marine, Parth Amboy, NJ - Pre-Action Advisory of Possible Need to Exceed \$1 Million Limit for a CENCLA Removal Action

Fred N. Hubel, Chief Response and Prevention Branch

Marc Mjoness, Guidance and Monitoring Team Member Guidance Development Section (WH-540E)

Attached is a removal action request which our Regional Administrator will soon be asked to concur with, involving the expenditure of over \$990,000. Because this has the potential for exceeding the \$1 million limit for CERCIA removal actions, I am asking that you advise within two days of receipt of this material whether Headquarters has any objections to this project, especially if it would later prevent the authorization of funds over \$1 million.

We will first order a potentially responsible party(ies) to act. Failing this, Trust Fund monies will be used. A lack of objection now to this action will not be construed to mean authorization to exceed \$1 million. We understand that the merits of the situation will have to be presented if funding exceeding the Regional Administrator's authority is needed at a future date. Your rapid reply would be appreciated.

Attachment

cc: W. Librizzi, 2FFet

B. Sprague, ZERR-RP

FILE: Duane Marine 2ERR-RP:RUBEL:340-6658:mab:11/6/84:disk M #1

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EPA Form 1320-1 (12-70)